

U.S.S.N. 10/661,939

Filed: September 12, 2003

**AMENDMENT AND RESPONSE TO OFFICE ACTION****Remarks****Response to Restriction Requirement**

In the Office Action mailed, January 11, 2006, the Examiner restricted claims 1-38 into 3 groups. Group I, claims 1-12 and 24-35, drawn to a method of producing polyhydroxyalkanoates (PHA) polymer by using at least one monomer and an organism expressing recombinant enzyme genes; Group II, claims 13-15 and 36-38, drawn to a PHA polymer, and Group III, claims 16-23, drawn to a recombinant organism expressing recombinant enzyme genes. In response Applicants elect Group III, without traverse. Applicant has elected the product claims with the understanding that if a product claim is found allowable, the process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. Claims 13-15 and 36-38 have been canceled. Please note that applicants expressly reserve their right to present these claims in one or more divisional and continuing applications. Claims 1 and 24 have been amended to correct a typographical error.

While the Office Action also indicated that restriction to one of (A) methods using a poly (3-hydroxyalkanoate) PHA synthetase; (B) methods using a poly (4-hydroxyalkanoate) PHA synthetase; and (C) methods using a poly (4-hydroxybutyrate) synthetase; and one of (D) methods additionally including an acyl-CoA transferase; (E) methods additionally including an acyl-CoA synthetase; (F) methods additionally including a  $\beta$ -ketothiolase; and (G) methods additionally including an acetoacetyl-CoA reductase is also required, pursuant to the telephone conversation with the Examiner on January 16, 2006, it is understood that it is an election of species that is required. Therefore, in response to the election of species, applicants elect (A)

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methods using a poly (3-hydroxyalkanoate) PHA synthetase and (D) methods additionally including an acyl-CoA transferase, with traverse. The election of species is understood to be for initial searching purposes only, and applicants expressly reserve the right to have other non-elected species examined on the allowance of a generic claim.

Applicant traverses the election of species because the generic claims do not recite such a multiplicity of species that an unduly extensive or burdensome search be necessary. The genes and gene products responsible for PHA synthesis are well known in the prior art, have been described in the patent literature, and are reviewed in Williams and Peoples, *Chemtech*, 26:38-44 (1996); Williams and Peoples, *Chem. Br.* 33:29-32 (1997), submitted by Applicant in the Information Disclosure Statement filed December 23, 2003. One of ordinary skill in the art will appreciate that it can be the same PHA synthase which will act as a poly(3-hydroxyalkanoate) synthase, poly(4-hydroxyalkanoate) synthase, or poly(4-hydroxybutyrate) synthase. Therefore a search for PHA synthases will inherently include poly(3-hydroxyalkanoate) synthase, poly(4-hydroxyalkanoate) synthase, and poly(4-hydroxybutyrate) synthase. The Examiner would not be overburdened with the examination of all claims in their entirety.

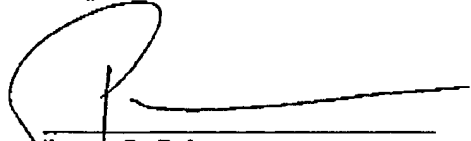
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Allowance of claims 1-12 and 16-35 is respectfully solicited.

Respectfully submitted,



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Date: February 13, 2006

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